



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,756	03/22/2004	Dimitri Wasil Kemper	P/334-197	2432
2352 7590 02/11/2008 OSTROLENK FABER GERB & SOFFEN 1180 AVENUE OF THE AMERICAS NEW YORK, NY 100368403				
EXAMINER				
SCHNEIDER, CRAIG M				
ART UNIT		PAPER NUMBER		
3753				
MAIL DATE		DELIVERY MODE		
02/11/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/806,756

Applicant(s)

KEMPER ET AL.

Examiner

CRAIG M. SCHNEIDER

Art Unit

3753

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-8 is/are pending in the application.
- 4a) Of the above claim(s) 2-4 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8 is/are allowed.
- 6) ☒ Claim(s) 5-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/18/07 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Election/Restrictions

1. Claims 2-4 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 1/18/07.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
4. Claims 7 and 5-6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lachaux (4,386,627) in view of Böke (WO 01/07356) .

Lachaux discloses an expansion tank (10) system operable to be connected to a pipe system. The expansion tank system comprising a tank configured for containing a liquid and/or gas. A connection opening (threaded end of 17) configured to connect the tank to the pipe system. A main channel (area of 17 between 18 and the threaded end)

positioned between the tank and the connection opening. A main valve (25) positioned in the main channel and configured to separate the inside of the tank from the connection opening. The main valve comprising a first valve seat (18) and a first closure member (26) interacting with the first valve seat and being operable: to close off the main channel at a defined overpressure when the pressure inside the tank is greater than the pressure in the connection opening, the overpressure having a defined level, and/or to close off the main channel at a defined liquid level in the tank, the overpressure and/or liquid level in the tank closing off the main channel by pressing the first closure member against the first valve seat. The tank is defined pressure ex works (col. 4, lines 10-58 and col. 6, lines 10-52). Lachaux does not disclose an auxiliary channel extending through the first closure member of the main valve from the interior of the tank to the connection opening when the main valve is in a closed position. Lachaux further does not disclose an additional valve positioned in the auxiliary channel formed to close off the auxiliary channel. The additional valve being formed to be closed during normal operation of the expansion tank when connected to the pipe system and to be opened when, during operation, a second overpressure exists in the tank greater than the overpressure which exists ex works. Böke (utilizing US Patent 6,682,316 as translation) discloses an additional valve (42') for closing off an auxiliary channel or passage, which extends through the first closure member of the main valve when the main valve is in a closed position. The additional valve is closed during normal operation of the valve and is open when the difference between the pressure in the discharge side of the main valve is higher than the supply side (col. 3, lines 9-38).

Regarding claim 5, Lachaux/Böke do not disclose that the first closure member is provided with a sealing ring. Böke discloses that the first closure member comprises a sealing ring (20)(col. 2, lines 1-4).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the check valve of Böke onto the main valve of Lachaux, in order to prevent damage to the system as taught by Böke (col. 3, line 31).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the sealing ring on the closure member of Böke onto the first closure member of Lachaux, in order to have a better seal.

Regarding claim 6, it would have been obvious to one having ordinary skill in the art to make the sealing ring out of a rubber, in order to ensure a proper seal.

Response to Arguments

5. Applicant's arguments filed 12/14/07 have been fully considered but they are not persuasive. The applicant is arguing that the Böke reference does not teach to open when a second overpressure exists. The examiner disagrees with this and points out that the purpose of the Böke valve in combination with the Lachaux device is to open if a second overpressure exists. This function is how the check valve would operate as disclosed by Böke if it was inserted into the Lachaux device. The additional valve in the application functions as a relief valve which is the same as the Böke valve and if one is concerned with overpressurization of a device then it is well known to install a relief valve in the device.

6. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Allowable Subject Matter

7. Claim 8 is allowed.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CRAIG M. SCHNEIDER whose telephone number is (571)272-3607. The examiner can normally be reached on M-F 8:30 -5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. M. S./
Examiner, Art Unit 3753
February 1, 2008

/Ramesh Krishnamurthy/
Primary Examiner, Art Unit 3753